



December 21, 2009

Federal Reserve Board
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Dear Sir/Madam:

The Board of Governors of the Mortgage Bankers and Brokers Association of New Hampshire, Inc. has approved and would like to submit the following three comments for your review and consideration:

1. **In response to Sec 36(a), Loan Originator and Mortgage Broker Defined**, it appears that the proposed definition of loan originators excludes all originators who are employed by depositories. Given that most depository originators are paid on a commission basis, it is unclear why the definition excludes this group. With brokers representing 30% of the origination market today, why is the proposed rule attempting to change or limit compensation for 30% of the marketplace and leave it unchanged for the other 70%? **Our recommendation is that the definition of loan originator be changed to encompass all registered and licensed loan originators.**
2. **In response to Sec 36(d), Prohibited Payments to Loan Originators**, Yield Spread Premium (YSP) plays a vital role in the interest rates offered borrowers by brokers. Few borrowers pay the full closing costs and points. The YSP pays the costs the borrowers choose to not pay directly; a simple way for the consumer to finance part or all of their closing costs. YSP allows greater flexibility in structuring loans and enhancing consumer choices. YSP is usually bifurcated to pay points and/or closing costs on behalf of the borrower and to pay revenue to the broker or loan originator. A retail lender (including depositories) that sells loans servicing released receives the same YSP as a broker. There is no difference in lender compensation methods between a broker and a retail lender selling servicing released. With FHA loans representing 20% - 30% of originations today, most depositories sell these loans servicing released, receiving a YSP as part of their loan compensation.

A retail lender that sells loans servicing retained is compensated through the Mortgage Servicing Rights (MSR). The MSR is part of the brokers' YSP. It is no coincidence that both YSP (excluding points and closing costs) and MSR are valued the same, at 6 X the 25 basis points servicing fee or 150 basis points for par interest rates. This is because servicing released premiums and MSR are both valuing the same 25 basis points of servicing fees.

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In addition, if the interest rate is above par, the retail lender books a gain on sale. It is the MSR and the gain on sale paid to the retail lender that equals the YSP paid to a broker.

If you are going to address YSP, it only makes sense that you address MSR and gain on sale at the same time. Otherwise, you are only addressing 30% of the compensation issues.

Our recommendation is that YSP be allowed to continue for the reasons stated above and to maintain a level playing field between brokers and lenders. This is in the best interest of the consumer. The decades-long practice of basing compensation on the loan amount is still the best solution.

3. **Recent Regulatory Restrictions addressing past lending abuses:** We'd like to note that revisions to Reg Z and the SAFE Act have added a number of lending restrictions and consumer safeguards in the past two years.
 - a. HOEPA restricted origination fees on high-cost loans.
 - b. Reg Z amended effective October 1, 2009, further limited fees with the "APOR + 150 BP" rule.
 - c. Most states require a net tangible benefits test for refinance loans.
 - d. The SAFE Act mandates full documentation on all loans.
 - e. The SAFE Act mandates an "ability to repay" analysis on each loan.

Thank you for the opportunity to submit our remarks and feedback.

Sincerely,

Doreen White

President
Mortgage Bankers and Brokers
Association of New Hampshire, Inc.